

Document Number

TEMPORARY LIMITED EASEMENT

Exempt from fee: s.77.25(2r) Wis. Stats.
RE3042x 1096 Ch. 84 Wis. Stats.

THIS EASEMENT, made by _____

GRANTOR, conveys a temporary limited easement as describe below to the **State of Wisconsin, Department of Transportation**, GRANTEE, for the sum of _____ (\$ _____) for the purpose of _____

Legal Description

LEGAL DESCRIPTION IS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

This space is reserved for recording data

Return to

Wis DOT Northeast Region
944 Vanderperren Way
Green Bay, WI 54304

Parcel Identification Number/Tax Key Number

GRANTOR, having been fully informed of GRANTOR'S right to have the above-described temporary easement appraised, and to receive just compensation for the easement based on an appraisal, waives the right to an appraisal and agrees to accept settlement in the above-stated amount as full payment for the easement, subject to approval by the Wisconsin Department of Transportation, as further consideration for this agreement.

This easement shall terminate upon completion of the construction project for which this instrument is given, or by _____, whichever occurs first.

(Signature)

(Print Name)

(Signature)

(Print Name)

(Date)

State of Wisconsin)
) ss.
_____ County)

On the above date, this instrument was acknowledged before me by the named person(s) or officers.

(Signature, Notary Public, State of Wisconsin)

(Print or Type Name, Notary Public, State of Wisconsin)

(Date Commission Expires)

(SEAL)

Project ID _____

This instrument was drafted by Wisconsin Dept of Transportation

Parcel No. _____

to appraising easements as would be to any other partial acquisition. The appraiser should always keep in mind the before and after concept when valuing an easement. The appraiser should use sound reasoning and logic to determine what percentage of the total ownership interest is affected. A before and after analysis using comparable sales affected by permanent easements may be helpful if the data is available. If sales with easements are used, the easements should be having similar affects on the sales properties as the easement being considered affects the subject. The most common type of easements found on comparable sales includes easements for access, utilities, overhead electric transmission lines, and pipelines. The appraiser should be aware of the amount paid by private utilities for easements; however, the compensation is often not based on market value because of the utilities lack of the power or use of eminent domain. If there is no sales data to support the valuation of the easement, the appraiser's justification should include an analysis of how the easement will affect the use of the property. Any percentage of loss of value for an easement should be proportionate to the loss of use of the property by the owner. It is possible that a permanent easement could also cause a severance damage or benefit to the property remaining. Either of these would be evident if the value of the remainder is permanently changed as a result of the easement.

2.8.9.3 Temporary Limited Easements (TLE)

A Temporary Limited Easement (TLE) (RE1577) is an interest in land that is limited in purpose and time. It must be acquired and compensation paid to the owner when the department has a need to temporarily use a portion of the property owner's land to construct the highway project. TLEs must be shown on the R/W plat and schedule of interests and identified and cleared as part of the project's R/W certification. The value of a temporary easement shall be estimated based on the damages caused to the property. This is similar to the way compensation for a permanent easement is estimated with the added dimension of a time period. A TLE is not the same as a land lease. The value of compensation for a TLE will typically be something less than for a land lease. Factors that need to be estimated in order to value a TLE are:

- Amount of land affected (stated in plat's schedule of interests).
- Amount of time property will be impacted (determined by project engineer).
- Degree/extent of impact (loss to owner from "bundle of rights").
- Rate of return/rental rate (determined by market).

The general formula for determining compensation for a TLE (assuming area of impact is one acre) is:

- 1 acre x economic rate of return x degree of Impact (between 0 – 100%) x number of years impacted = value of TLE taking.

Extent of impact: The appraiser must determine the degree/extent of impact to the property owner's land. The appraiser must explain their reasoning as to the degree/extent of impact. Compensation for a TLE will vary depending on the impact to the property. If the work involves minor aesthetic blending or reconstruction work, there may be no payment. In this case, the words "one dollar and other good and valuable considerations" will be entered in the instrument's compensation link. Where the impact is more substantial, a percent must be applied. The degree of impact will be based on the extent of limitation of use placed on the land by project-related activities.

Amount of land affected: This is stated in the plat's schedule of interests. There can be many different applicable methods used to determine damages due to acquisition of a TLE. One method, the return on investment, is shown below an example of how to apply the method in agricultural areas. Return on investment may not be the applicable method in every case and the valuation expert must give consideration to the purpose of the TLE as well as the affect of construction limits on the TLE area when determining the most applicable method to use in the valuation of the specific TLE.

Rate: Damages that result from temporary limited easements are usually based on economic return on investment. For example, in agricultural areas land rental rates are available in the market. Rental rates can also be estimated by establishing the relationship between rent and value for other properties in the area. If a parking lot valued at \$100,000 is being rented for \$500/mo, the rental rate in relation to value can be estimated as: $\$500/\text{mo} \times 12 = \$6,000 \text{ yr.}$; $\$6,000/\$100,000 = 6\%$ as the rental rate for the property. If a TLE is one acre, then: $1 \text{ acre} \times 6\% \text{ rate} \times \text{fee value/acre} \times \text{degree/extent of impact} \times \text{number of years impacted} = \text{value of TLE taking}$. If rental data is not available, it is acceptable for the appropriate rate of return to be estimated. Land could be compared to a monetary asset through the principle of substitution and an appropriate rate of return based on risk could be estimated. This is done using the fee value of the land from market sales and the term for the easement period as described by the region. An example of this technique for a two-year temporary easement would be to use the rate for a two-year certificate of deposit and the fee value of the land to estimate the value of a temporary interest.

Time: Compensation for a TLE is paid from the effective date of the appraisal to completion of the project. To determine the appropriate length of time for which compensation is to be paid, the appraiser must find out how long the property owner will be inconvenienced by project-related activities. The appraiser must find out: when will construction start; when will it end; and, will other activities of the department prior to or after construction affect the owners' use of their land? The appraiser is attempting to determine how long the owner will be prevented from full use of the property. The appraiser needs to discuss these questions with regional Real Estate and Engineering staff and/or management. The document should state the purpose of the temporary interest and include a statement that "This TLE expires at the completion of the construction project for which this instrument is given." If the department is asked by a bank, attorney, etc. to qualify if a TLE has been released, a Release of Temporary Limited Easement (RE1019) can be provided. This document may be modified as appropriate. Every TLE parcel on a particular plat can be included in this document if necessary.

2.8.9.4 Construction Permits

There can be uncertainty about if to use a Construction Permit Recommendation and Approval (RE1732) or acquire a TLE. A Construction Permit, which is not an interest in land, can only be used if the temporary need to use the land is for the benefit of the owner and not needed for the project.

2.8.9.5 Consistency

If there is more than one appraiser on a project or if there is a mixture of nominal/waiver parcels on a project, the negotiator and/or review appraiser shall discuss the various methods and the supporting data available prior to the start of the appraisals or acquisition